

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

CORNELL SUTHERLAND,	:	
Petitioner,	:	
	:	
v.	:	No. 2:19-cv-00732
	:	
ROBERT GILMORE;	:	
THE DISTRICT ATTORNEY OF THE	:	
COUNTY OF PHILADELPHIA; and	:	
THE ATTORNEY GENERAL OF THE	:	
STATE OF PENNSYLVANIA,	:	
Respondents.	:	

ORDER

AND NOW, this 12th day of February, 2020, upon consideration of the Petition for Writ of Habeas Corpus, ECF No. 1; Petitioner’s Motion for Temporary Stay of Proceedings/Abeyance, ECF No. 5; the state court record; the Response to the Petition for Writ of Habeas Corpus, ECF No. 12; the Report and Recommendation issued by Magistrate Judge Linda K. Caracappa on November 26, 2019, ECF No. 15; and in the absence of objections;¹ **IT IS HEREBY ORDERED THAT:**

¹ When neither party objects to a magistrate judge’s report and recommendation, the district court is not statutorily required to review the report, under de novo or any other standard. 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 152 (1985). Nevertheless, the United States Court of Appeals for the Third Circuit has held that it is better practice to afford some level of review to dispositive legal issues raised by the report. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987), *writ denied* 484 U.S. 837 (1987). “When no objections are filed, the district court need only review the record for plain error or manifest injustice.” *Harper v. Sullivan*, No. 89-4272, 1991 U.S. Dist. LEXIS 2168, at *2 n.3 (E.D. Pa. Feb. 22, 1991). *See also Hill v. Barnacle*, No. 15-3815, 2016 U.S. App. LEXIS 12370, at *16-17 (3d Cir. 2016) (holding that even when objections are filed, district courts “are not required to make any separate findings or conclusions when reviewing a Magistrate Judge’s recommendation de novo under 28 U.S.C. § 636(b)”); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (explaining that in the absence of a timely objection, the court should review the magistrate judge’s report and

1. The Report and Recommendation, ECF No. 15, is **APPROVED and ADOPTED.**
2. The Petition for Writ of Habeas Corpus, ECF No. 1, is **DISMISSED.**
3. The Motion for Temporary Stay of Proceedings/Abeyance, ECF No. 5, is **DENIED.**
4. There is no basis for the issuance of a certificate of appealability.
5. The Clerk of Court shall **CLOSE** this case.

BY THE COURT:

/s/ Joseph F. Leeson, Jr.
JOSEPH F. LEESON, JR.
United States District Judge

recommendation for clear error). The district court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1)(C).